

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number SR-NASD-94-68 and should be submitted by February 22, 1995.

VI. Conclusion

The Commission, in the exercise of the authority delegated to it by Congress, and in light of its experience regulating securities markets and market participants, has determined that a temporary extension of the Amended Interim SOES Rules will provide an orderly phase-out period and is consistent with maintaining investor protection and fair and orderly markets, and that these goals, on balance, outweigh any temporary anti-competitive effects on order entry firms and their customers.

For the reasons discussed in this order, pursuant to Section 19(b)(2) of the Act,²¹ the Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after publication of Amendment No. 2 in the **Federal Register**. The proposed amendment shortens the date that the Amended Interim SOES Rules would expire from May 1, 1995 to March 27, 1995, and will facilitate maintenance of fair and orderly markets. Prior to Amendment No. 2, the proposed rule change was published in the **Federal Register** for the full statutory period.

Accordingly, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule

change is consistent with the Congressional objectives for the equity markets, set out in Section 11A, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the instant rule change SR-NASD-94-68 be, and hereby is, approved, effective January 26, 1995, extending the Interim SOES Rules, exclusive of the short sale prohibition, through March 27, 1995.

By the Commission.

Jonathan G. Katz,
Secretary.

[FR Doc. 95-2388 Filed 1-31-95; 8:45 am]
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[Release No. 34-35274; File No. SR-NYSE-94-34]

Self-Regulatory Organizations; New York Stock Exchange, Notice of Filing of Extension of Comment Period Relating to Amendment of Exchange Rule 92—Limitations on Members' Trading Because of Customers' Orders

January 25, 1995.

On September 27, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NYSE-94-34), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), and filed Amendment No. 1 thereto on December 20, 1994. The NYSE filed the proposal to amend NYSE Rule 92. Notice of the proposed rule change was provided by the issuance of a Commission release, Securities Exchange Act Release No. 35139 (December 22, 1994), 60 FR 156 (January 3, 1995).

The Commission received requests for extension of the period for public comment on the proposed rule change from several self-regulatory organizations ("SROs"). Pursuant to Section 19(b)(2) of the Act, the NYSE consented to an additional twenty-one day public comment period.¹ Because other SROs have expressed their intention to submit comments, a longer comment period is appropriate to ensure complete analysis of the proposal.

The Commission hereby extends the period for public comment on the

proposed rule change until February 22, 1995.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-94-34 and should be submitted by February 22, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-35277; File No. SR-PSE-94-24]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Financial Arrangements of Options Market Makers

January 25, 1995.

On September 9, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change regarding financial arrangements of market makers and the trading restrictions that are imposed on market makers who have financial

¹ Letter from Donald Siemer, NYSE, to Katherine Simmons, SEC, dated January 24, 1995

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1992).

²¹ 15 U.S.C. § 78s(b)(2).

arrangements with other members or member organizations. Notice of the proposal appeared in the **Federal Register** on December 23, 1994.³ No comment letters were received on the proposed rule change. The Exchange filed Amendment No. 1 to the proposal on January 25, 1995.⁴ This order approves the Exchange's proposal, as amended.

The Exchange is proposing several amendments to Exchange Rule 6.40 (Financial Arrangements of Market Makers). First, the Exchange is proposing to change its definition of "financial arrangement." Specifically, instead of relying on the Exchange's definition of financial arrangement under Rule 4.18,⁵ a financial arrangement for purposes of Rule 6.40 would exist if one member directly finances the other member's dealings upon the Exchange and has a beneficial interest in the other member's trading account such that the first member is entitled to at least ten percent of the second member's trading profits. In the alternative, a financial arrangement will be deemed to exist under Rule 6.40(a) where two members trade for the same joint account.

Second, the Exchange proposes to modify Rule 6.40(b) to provide that two floor officials, on the basis of demonstrated need, may grant a written exemption⁶ to the trading restrictions imposed by the rule.⁷

Finally, the Exchange proposes to add several commentaries to Rule 6.40. Proposed Commentary .03 merely provides that for purposes of Rule 6.40(a), the term "member" includes members and member organizations.

Proposed Commentary .04 states the purpose of Rule 6.40 and further provides that any market makers who

are not technically covered by the terms of Rule 6.40, but who unfairly dominate the market in any class of options, will be considered to be in violation of their obligation to contribute to the maintenance of fair and orderly markets and to act in accordance with just and equitable principles of trade.

Proposed Commentary .05 codifies the Exchange's existing policy that two or more Lead Market Makers ("LMMs") who are trading on behalf of the same member organization may not bid, offer, and/or trade in the same option series at the same time. Commentary .05 further provides that two or more LMMs who do not have financial arrangements with each other are permitted to bid, offer and/or trade in the same option series at the same time.⁸

Proposed Commentary .06 provides that exemptions to the trading restrictions in Rule 6.40(b) may ordinarily be granted by two floor officials for the purpose of providing liquidity in a trading crowd or where the individual situation otherwise warrant such action. Commentary .06 further provides that an exemption granted pursuant to Rule 6.40(b) generally will not extend beyond the trading day on which it is issued. Moreover, Commentary .06 provides that the Exchange's Options Floor Trading Committee ("Committee") will review, on a regular basis, the exemptions granted pursuant to Rule 6.40(b).⁹

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).¹⁰ Specifically, the Commission finds, as it did in originally approving Rule 6.40,¹¹ that full disclosure of financial arrangements among PSE market makers, members, and member organizations helps the Exchange to better identify and deter potential trading abuses among affiliated PSE members and member organizations. In addition, with such disclosure, the Exchange's ability to monitor the financial condition of its members and member organizations is enhanced. The Commission believes that the proposed amendments to Rule 6.40 do not detract

from these benefits in any material manner and thus, are consistent with the Act.

The Commission believes that it is appropriate for the Exchange to amend the definition of "financial arrangement" to focus more on the nature of the financial interest that a member may have in a market maker's trading account. The Commission believes that the amended definition will help the Exchange to achieve a balance whereby it can still restrict the types of activity for which the rule was intended without unnecessarily removing liquidity from its trading crowds. Commentary .04 furthers this by clarifying the purpose of the rule and providing that unfair domination by market makers subject to financial arrangements that technically are not covered by the amended definition will be considered a violation of just and equitable principles of trade.¹² The Commission believes that Commentary .06 is also consistent with this goal by providing that exemptions to the trading restrictions in Rule 6.40(b) may ordinarily be granted for purposes of providing liquidity in a trading crowd.

On balance, the Commission believes that the trading restrictions in Rule 6.40 should continue to help to preclude collusive trading activity and increase public confidence in the markets while the proposed amendments to Rule 6.40 will allow PSE market makers to continue to respond to trading conditions in all options classes on the Exchange floor without adversely affecting the liquidity of the Exchange's options markets.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As discussed above, the Commission believes that Proposed Commentary .07 was merely a restatement of the general proposition that in considering appropriate sanctions for violation of Exchange rules, the Exchange (and appropriate committees) may consider mitigating factors, such as whether a violation was inadvertent. As a result, the Commission believes that deleting this language from Rule 6.40 does not raise any new regulatory concerns. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment No.

¹²The Commission also notes that as with other PSE rules, in considering appropriate sanctions for violations of Rule 6.40, the Exchange can consider mitigating factors, such as whether a violation was inadvertent. See Amendment No. 1, *supra* note 4.

³ See Securities Exchange Act Release No. 35107 (December 16, 1994), 59 FR 66395 (December 23, 1994).

⁴ In Amendment No. 1, the Exchange deleted proposed Commentary .07 from PSE Rule 6.40, regarding inadvertent violations of Rule 6.40. See Letter from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated January 25, 1995 ("Amendment No. 1").

⁵ Rule 4.18 requires disclosure to the Exchange of certain financial arrangements of members. For these purposes, a financial arrangement is defined as: (1) The direct financing of a member's dealings upon the Exchange; or (2) any direct equity investment or profit sharing arrangement; or (3) any consideration over the amount of \$5,000 that constitutes a gift, loan, salary, or bonus. See PSE Rule 4.18(a).

⁶ This amendment merely changes the word "dispensation" to "exemption."

⁷ The Exchange also proposes non-substantive amendments to Rule 6.40(b) by deleting subsections (b)(2) and (b)(3) and adding to subsection (b)(1) the restriction on bidding, offering, and/or trading in the same option series at the same time.

⁸ See generally PSE Rule 6.82 (Lead Market Maker System Pilot Program).

⁹ This requirement is presently set forth in Rule 6.40(c). To avoid repetition, the Exchange also proposes to delete Rule 6.40(c) and renumber rule 6.40(d).

¹⁰ 15 U.S.C. § 78f(b)(5) (1988).

¹¹ See Securities Exchange Act Release No. 32775 (August 20, 1993), 58 FR 45368 (August 27, 1993).

1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-94-24 and should be submitted by February 22, 1995.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-PSE-94-24), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-2385 Filed 1-31-95; 8:45 am]

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[Release No. 34-35279; File No. SR-Phlx-94-75]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Amending the Phlx's Schedule of Fees and Charges Respecting Fees and Charges for the Transaction of Business on its Option Floor, Specifically the Options Transaction Value Charge

January 25, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b-4 of the Act, proposes to amend the Phlx's Schedule of Fees and Charges respecting options transaction charges for the transaction of business on its options floor. Specifically, the rule change would provide a discount on certain options transactions charges regarding all Phlx equity and index options involving block transactions of 500-999 and 1000 or more contracts.¹

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend the Phlx Schedule of Fees and Charges for the transaction of business on its options floor. Effective at the opening of business on Tuesday, January 3, 1995, the Phlx adopted an amended options transaction value charge schedule to accord member firms transacting business for customers accounts, regarding all equity and index options, to receive a discount from the option transaction charges of 15% and 25% respectively for block transactions for customers executions of 500-999

¹ The proposal originally stated that the options transaction value charge applied to "Equity, Sectors and Value Line Index options." The Exchange filed Amendment No. 1 to the proposal on January 12, 1995 indicating that the options transaction value charge applies to all equity and index options for block transactions of 500-999 and 1000 or more contracts. See Letter from Murray L. Ross, Secretary, Phlx, to John Ayanian, Staff Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated January 12, 1995, and telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Staff Attorney, OMS, Division, Commission, on January 17, 1995. ("Amendment No. 1").

contracts and 1000 or more on a per trade basis, upon submission of a Phlx Customer Option Block Trade Discount Request Form with supporting documentation within thirty days of the monthly billing date. It should be noted that due to the limitations respecting the recording of transactions on the Phlx options trading floor, options customer block transactions will continue to be invoiced at the non-discounted customer execution rates. The purpose of these amended changes respecting all equity and index option transactions is to promote and encourage additional customer market participation in these products at the Phlx.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(4), in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing for the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent

¹³ 15 U.S.C. § 78s(b)(2) (1988).

¹⁴ 17 CFR 200.30-3(a)(12) (1994).